

§ 1007.77

nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

§ 1007.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1007.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1007.71, 1007.76, 1007.77, 1007.78, 1007.85, and 1007.86 shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. The late charges shall be added to the respective accounts to which due. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

MARKETWIDE SERVICE PAYMENTS

§ 1007.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the Transportation Credit Balancing Fund into which shall be deposited the payments made by handlers pursuant to § 1007.81 and out of which shall be made

7 CFR Ch. X (1-1-97 Edition)

the payments due handlers pursuant to § 1007.82. Payments due a handler shall be offset against payments due from the handler.

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§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I milk assigned pursuant to § 1007.44 by \$0.06 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the higher of the following amounts:

(1) The total transportation credits dispensed during the prior July-December period; or

(2) The total transportation credits dispensed during the immediately preceding 6-month period.

(b) On or before the 13th day after the end of the month, the market administrator shall credit the transportation credit balancing fund, from the producer-settlement fund, any amount deducted pursuant to § 1007.61(a)(4) or (b)(5).

(c) This section is effective August 10, 1996. The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month, except that for the first month that this section is effective the assessment shall be announced no later than August 9, 1996, and for the first 3 months that this section is effective the assessment pursuant to paragraph (a) of this section shall be 6 cents per hundredweight.

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§ 1007.82 Payments from the transportation credit balancing fund.

(a) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b)

of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(5), bulk milk transferred from another order plant as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1007.30(a)(6), bulk milk directly from producers' farms as specified in paragraph (c)(2) of this section an amount determined pursuant to paragraph (d) of this section. In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to any of the months of January through June if the market administrator receives a written request to do so 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) The transportation credit described in paragraph (a) of this section shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, 1011, and 1046 allocated to Class I milk pursuant to § 1007.44; and

(2) Bulk milk classified pro rata as Class I milk pursuant to § 1007.44 received directly from the farms of dairy

farmers at pool distributing plants under the following conditions:

(i) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of January through June and not more than 32 days' production of the dairy farmer was received as producer milk under this order during that period; and

(ii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing areas of Federal Orders 1005, 1011 or 1046, and, is not within 85 miles of the plant to which its milk is delivered.

(d) Transportation credits shall be computed as follows:

(1) For milk described in paragraph (c)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the transferor plant and the transferee plant;

(ii) Multiply the number of miles computed in paragraph (d)(1)(i) of this section by 0.37 cents;

(iii) Subtract the other order's Class I price applicable at the transferor plant's location from the Class I price applicable at the transferee plant as specified in § 1007.52;

(iv) Subtract any positive difference computed in paragraph (d)(1)(iii) of this section from the amount computed in paragraph (d)(1)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(1)(iv) of this section by the hundredweight of milk described in paragraph (c)(1) of this section.

(2) For milk described in paragraph (c)(2) of this section:

(i) Each milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may stop at the nearest independently-operated truck stop with a truck scale and obtain a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop. The location of the truck stop shall be used as a starting point for the purpose of measuring the distance to the pool plant receiving that load of milk. If a weight certificate for a supplemental load of milk for which a transportation

credit is requested is not available, the market administrator shall use the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant.

(ii) For each bulk tank load of milk received pursuant to paragraph (d)(2)(i) of this section, the market administrator shall determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Multiply the number of miles computed in paragraph (d)(2)(ii) of this section by 0.37 cents;

(iv) Subtract the order's Class I price applicable at the origination point determined pursuant to paragraph (d)(2)(ii) of this section (as if this point were a plant) from the Class I price applicable at the distributing plant receiving the milk;

(v) Subtract any positive difference computed in paragraph (d)(2)(iv) of this section from the amount computed in paragraph (d)(2)(iii) of this section; and

(vi) Multiply the number computed in paragraph (d)(2)(v) of this section by the hundredweight of milk described in paragraph (c)(2) of this section.

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ADMINISTRATIVE ASSESSMENT AND
MARKETING SERVICE DEDUCTION

§ 1007.85 Assessment for order administration.

As each handler's pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1007.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1007.9(c);

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1007.43(d) and other source milk

allocated to Class I pursuant to § 1007.44(a) (7) and (11) and the corresponding steps of § 1007.44(b), except such other source milk that is excluded from the computations pursuant to § 1007.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1007.76(a) (2).

§ 1007.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1007.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of the month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.